

GENERAL ASSEMBLY OF NORTH CAROLINA
1997 SESSION

S.L. 1997-350
SENATE BILL 254

AN ACT TO PROHIBIT DISCRIMINATION IN HEALTH INSURANCE AND
EMPLOYMENT BASED ON GENETIC INFORMATION.

The General Assembly of North Carolina enacts:

Section 1. Article 3 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"§ 58-3-215. Genetic information in health insurance.

(a) Definitions. – As used in this section:

- (1) 'Genetic information' means information about genes, gene products, or inherited characteristics that may derive from an individual or a family member. 'Genetic information' does not include the results of routine physical measurements, blood chemistries, blood counts, urine analyses, tests for abuse of drugs, and tests for the presence of human immunodeficiency virus.
- (2) 'Health benefit plan' means an accident and health insurance policy or certificate; a nonprofit hospital or medical service corporation contract; a health maintenance organization subscriber contract; a plan provided by a multiple employer welfare arrangement; or a plan provided by another benefit arrangement, to the extent permitted by the Employee Retirement Income Security Act of 1974, as amended, or by any waiver of or other exception to that Act provided under federal law or regulation. 'Health benefit plan' does not mean any plan implemented or administered through the Department of Human Resources or its representatives. 'Health benefit plan' also does not mean any of the following kinds of insurance:
 - a. Accident
 - b. Credit
 - c. Disability income
 - d. Long-term or nursing home care
 - e. Medicare supplement
 - f. Specified disease
 - g. Dental or vision
 - h. Coverage issued as a supplement to liability insurance
 - i. Workers' compensation
 - j. Medical payments under automobile or homeowners

- k. Hospital income or indemnity
 - l. Insurance under which benefits are payable with or without regard to fault and that is statutorily required to be contained in any liability policy or equivalent self-insurance
 - m. Blanket accident and sickness.
- (3) 'Insurer' means an insurance company subject to this Chapter; a service corporation organized under Article 65 of this Chapter; a health maintenance organization organized under Article 67 of this Chapter; or a multiple employer welfare arrangement subject to Article 49 of this Chapter.

(b) For the purpose of this section, routine physical measurements, blood chemistries, blood counts, urine analyses, tests for abuse of drugs, and tests for the presence of human immunodeficiency virus are not to be considered genetic tests.

(c) No insurer shall:

- (1) Raise the premium or contribution rates paid by a group for a group health benefit plan on the basis of genetic information obtained about an individual member of the group.
- (2) Refuse to issue or deliver a health benefit plan because of genetic information obtained about any person to be insured by the health benefit plan.
- (3) Charge a higher premium rate or charge for a health benefit plan because of genetic information obtained about any person to be insured by the health benefit plan."

Section 2. Article 3 of Chapter 95 of the General Statutes is amended by adding the following new section to read:

"§ 95-28.1A. Discrimination against persons based on genetic testing or genetic information prohibited.

(a) No person, firm, corporation, unincorporated association, State agency, unit of local government, or any public or private entity shall deny or refuse employment to any person or discharge any person from employment on account of the person's having requested genetic testing or counseling services, or on the basis of genetic information obtained concerning the person or a member of the person's family. This section shall not be construed to prevent the person from being discharged for cause.

(b) As used in this section, the term 'genetic test' means a test for determining the presence or absence of genetic characteristics in an individual or a member of the individual's family in order to diagnose a genetic condition or characteristic or ascertain susceptibility to a genetic condition. The term 'genetic characteristic' means any scientifically or medically identifiable genes or chromosomes, or alterations or products thereof, which are known individually or in combination with other characteristics to be a cause of a disease or disorder, or determined to be associated with a statistically increased risk of development of a disease or disorder, and which are asymptomatic of any disease or disorder. The term 'genetic information' means information about genes, gene products, or inherited characteristics that may derive from an individual or a family member."

Section 3. G.S. 95-241(a), as rewritten by S.L. 1997-153, reads as rewritten:

"(a) No person shall discriminate or take any retaliatory action against an employee because the employee in good faith does or threatens to do any of the following:

- (1) File a claim or complaint, initiate any inquiry, investigation, inspection, proceeding or other action, or testify or provide information to any person with respect to any of the following:
 - a. Chapter 97 of the General Statutes.
 - b. Article 2A or Article 16 of this Chapter.
 - c. Article 2A of Chapter 74 of the General Statutes.
 - d. G.S. 95-28.1.
 - e. Article 16 of Chapter ~~127A~~. 127A of the General Statutes.
 - f. G.S. 95-28.1A.
- (2) Cause any of the activities listed in subdivision (1) of this subsection to be initiated on an employee's behalf.
- (3) Exercise any right on behalf of the employee or any other employee afforded by Article 2A or Article 16 of this Chapter or by Article 2A of Chapter 74 of the General Statutes."

Section 4. Nothing in this act applies to specified accident, specified disease, hospital indemnity, disability, or long-term care health insurance policies.

Section 5. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 22nd day of July, 1997.

s/ Dennis A. Wicker
President of the Senate

s/ Harold J. Brubaker
Speaker of the House of Representatives

s/ James B. Hunt, Jr.
Governor

Approved 3:59 p.m. this 1st day of August, 1997